



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
ECOSYSTEMS,
TRIBAL AND PUBLIC
AFFAIRS

August 11, 2014

Leah Wickstrom
CENWS-PM-CP
PO Box 3755
Seattle, Washington 98124-3755

Re: U.S. Environmental Protection Agency comments on the U.S. Army Corps Seattle District Grays Harbor, Washington Navigation Improvement Project General Investigation Feasibility Study Final Limited Reevaluation Report and Supplemental Environmental Impact Statement. EPA Project Number: 89-029-COE.

Dear Ms. Wickstrom:

We have reviewed the Corps' Grays Harbor Navigation Improvement Final Limited Reevaluation Report (LRR) and Supplemental Environmental Impact Statement (SEIS). Our review was conducted in accordance with the EPA's responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

We have been involved in this project primarily as a member of the multi-agency Dredged Material Management Program (DMMP) and as a participant on the Revised Crab Mitigation Strategy Agreement (RCMSA) work group. We plan to continue our involvement as a member of the DMMP, a signatory to the 1998 RCMSA, and a participant on the RCMSA work group. Our review was also conducted in accordance with EPA's responsibilities under the Marine Protection, Research, and Sanctuaries Act (MPRSA).

Thank you for your responses to our comments and for this opportunity to provide input before the NEPA Record of Decision is signed. While many of the changes made between the draft and final SEIS are responsive to our April 8, 2014 draft SEIS comments, we continue to have concerns about this project's contribution to cumulative effects to benthic invertebrates, fish and wildlife, water quality, noise, air pollution, and geomorphology in Grays Harbor. We also continue to have concerns about the Corps' implementation of the Revised Crab Mitigation Strategy Agreement. To address our concerns, we recommend that the Record of Decision include a discussion on the Corps' and Port's plans to pursue more general or harbor-wide restoration and enhancement and confirm the Corps' commitment to implement the Revised Crab Mitigation Strategy Agreement, which should include coordination with interagency crab work group members.

If you have any questions please contact me at (206) 553-1601 or by electronic mail at reichgott.christine@epa.gov, or you may contact Erik Peterson of my staff at (206) 553-6382 or by electronic mail at peterson.erik@epa.gov. If you have DMMP or RCMSA-related questions, please contact Justine Barton at (206) 553-6051 or by electronic mail at barton.justine@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Christine B. Reichgott". The signature is fluid and cursive, with the first name "Christine" written in a larger, more prominent script than the last name "Reichgott".

Christine B. Reichgott, Manager
Environmental Review and Sediment Management Unit

Enclosure:

1. Detailed EPA comments on the Grays Harbor Navigation Improvement Project General Investigation Feasibility Study Final Limited Reevaluation Report and Supplemental Environmental Impact Statement

Detailed EPA comments on the Grays Harbor Navigation Improvement Project General Investigation Feasibility Study Final Limited Reevaluation Report and Supplemental Environmental Impact Statement

Introduction

In our detailed comments below, we describe whether or not and how changes made between the draft SEIS and final SEIS are responsive to our April 8, 2014 concerns and recommendations. We are organizing our description of the Corps' responsiveness to our DSEIS comments according to the SEIS Appendix G Public Comments' comment codes.

Responsiveness to Comment 23-2

Your correction of the inadvertently retained and isolated statement at section 4.2.5.4 of the DSEIS is responsive to our recommendation that the FSEIS resolve what appeared to be an important discrepancy regarding the action alternatives' contribution to additional shipping and port development.

Responsiveness to Comments 23-3, 23-5, 23-10, 23-18 and 23-25

Thank you for your response to comments 23-3, 23-5, 23-10, 23-18 and 23-25. We are providing the comments below because we are concerned that the SEIS unnecessarily de-emphasizes the importance of this project's incremental impacts.

The SEIS includes substantial useful information on cumulative effects, and we agree with many of the related conclusions. We agree that past, present, and reasonably foreseeable future actions in the Grays Harbor study area, when viewed collectively, "...could have cumulatively substantial effects on several resource areas including, but not limited to, cumulative effects on marine transportation, benthic invertebrates, fish and wildlife, water quality, noise, air pollution, and geomorphology."¹ We agree with the SEIS's conclusion about collectively substantial effects because the baseline conditions for cumulative effects analysis considers historic impacts, such as, "By one estimate, approximately...30% of the historic intertidal habitats in Grays Harbor have been lost..."² Presenting the baseline for cumulative impacts in relationship to historic or natural conditions is consistent with EPA's 1999 advisory memorandum *Consideration of Cumulative Impacts in EPA Review of NEPA Documents*.³

We also understand the SEIS's conclusion that, overall, the proposed action's contribution to the cumulative effects listed above are expected to be minor. While we understand the SEIS's position that incremental effects would be minor, we are concerned that the SEIS does not sufficiently emphasize the importance of adding adverse environmental effects to collectively significant effects. We are concerned about instances where lead agencies de-emphasize a specific project's incremental effects by characterizing them as minor in comparison to past, present, and reasonably foreseeable effects because

¹ Final SEIS, p. 285

² Final SEIS, p. 277

³ See section 4.4 Describing the Condition of the Environment – "The NEPA analysis should establish the magnitude and significance of cumulative impacts by comparing the environment in its naturally occurring state with the expected impacts of the proposed action when combined with the impacts of other actions." – at: <http://www.epa.gov/compliance/resources/policies/nepa/cumulative.pdf>

- in short - continually adding to ongoing and collectively significant adverse effects makes moving toward sustainable development impossible.⁴

To address our interest in appropriate emphasis on incremental additions to ongoing and collectively significant adverse effects, we recommend that the Record of Decision include a discussion on the Corps' and Port's plans to pursue more general or harbor-wide restoration and enhancement. Such a discussion could include an update on the Grays Harbor Long-Term Management Strategy.

Responsiveness to comments 23-6, 23-7, 23-8, 23-9, 23-22, 23-28 and 23-31

The responses to the above referenced comments do not completely address our concerns relative to the Revised Crab Mitigation Strategy Agreement and work group process. First, per discussion around critical SEIS table 4.4-3, the Corps has "refined the dredged volumes by reach" and gear type – which has enormous implications for the Dredge Impact Model (DIM) outputs in terms of crab impacts. For the SEIS the Corps recalculated impacts as far back as 1991 through the present (2013). To our knowledge, none of these recalculations were vetted with the crab work group or participating signatory agencies. Why have these changes been made unilaterally and not specifically shared with the work group? The EPA has seen no supporting documentation for the new numbers in Table 4.4-3, thus we cannot ascertain the basis of the recalculations and agree with the Corps' new impact numbers.

Accordingly, it remains unclear whether the ongoing crab mitigation efforts via the Corps maintenance program can and will continue to offset the incremental impacts of the NIP, as well as completely cover needed mitigation for the ongoing maintenance program. The NIP analysis is concerned with incremental project effects. Though relatively minor, these incremental effects are occurring, and must be offset in the context of the ongoing maintenance program. It is in the EPA's and the Corps' interests to ensure that the maintenance program can cover all construction and long-term mitigation requirements and that the work group be convened to allow interagency coordination on DIM and mitigation issues.

Second, the Corps has not monitored the shell plots since 2011, nor has shell been placed since 2006. A minor hiatus from this effort was informally requested to convene the work group, however, it appears the work group effort has lost momentum. The Corps analysis assumes that 2012 and 2013 adult 2+ production from ageing shell plots remains equal to the measured average production from years 2007-2011, a highly unlikely assumption. Participating in and being consistent with the RCMSA assumes the Corps will perform the necessary fieldwork, shell placement and interagency coordination required to utilize the DIM and track dredging impacts and mitigation. We are concerned about the Corps' current commitment to these necessary tasks.

Third, per a Table 4.4-3 footnote, we would like an accounting of the "mathematical errors in the consultant's 2012 report". To date the work group agencies have been using this consultant's report (Visser 2012) and we were not aware of calculation errors.

⁴ See p. 3 of the Council on Environmental Quality's 1997 handbook *Considering Cumulative Effects Under the National Environmental Policy Act* – "Without incorporating cumulative effects into environmental planning and management, it will be impossible to move towards sustainable development, i.e., development that meets the needs of the present without compromising the ability of future generations to meet their own needs." – at: http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-ConsidCumulEffects.pdf

Finally, when is the crab work group going to be reconvened? We recommend the Corps set up a schedule and plan a meeting for October 2014, perhaps in conjunction with the District's semiannual navigation/dredging program meeting.

The Record of Decision should confirm the Corps' commitment to the fieldwork, shell placement and interagency coordination required to implement the Revised Crab Mitigation Strategy Agreement now in place.

Responsiveness to comment 23-11

The response is acceptable if, as indicated in the response, the work group continues to meet. The Corps should use the group to vet its ongoing implementation of the RCSMA, as well as any changes to inputs to the DIM.

Responsiveness to comments 23-12, 23-13, 23-14, 23-15, 23-16, 23-17

The responses are acceptable.

Responsiveness to comment 23-19

The response is acceptable.

Responsiveness to comment 23-20

The response indicates that crab trawling does not currently occur and partially responds to our comment. Please make clear how many crab surveys were completed and during what years. Also, please explain where past crab trawl results may be found.

Responsiveness to comment 23-21

The response is acceptable.

Responsiveness to comments 23-23 and 23-24

The responses are acceptable.

Responsiveness to comments 23-26 and 23-27

The responses are acceptable.

Responsiveness to comment 23-29 and 23-30

The response is acceptable.